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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chen et al.
Serial No. : 10/619,824
Filed : July 14, 2003
Title : TREATMENT AND PROPHYLAXIS WITH 4-1BB-BINDING AGENTS

Art Unit : 1633
Examiner : Qian J. Li

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed February 23, 2006, Applicants elect the invention of Group I, drawn to methods for treating autoimmune disease using a 4-1BB agonist that is an antibody or a ligand. Applicants submit that this election reads on claims 1-12, 14, 17-30, and 32. Applicants further elect the autoimmune disease species of systemic lupus erythematosus, and the 4-1BB agonist species of an antibody. Applicants submit that these elections read on claims 1-10, 17-21, 23-28, and 32, with claims 1-3, 7-9, 17, 18, 23-27, and 32 being generic.

Applicants note that if generic claims 1 and/or 18 are found to be allowable, claims reading on other species of autoimmune disease (claims 11, 12, 29, and 30), as well as claims reading on 4-1BB ligands or fragments thereof (claims 14 and 22), will be entitled to consideration. In addition, with reference to the statement in the Restriction Requirement that Groups I, II, and III are linked, Applicants note that if claims 1 and/or 18 are found to be allowable, claims falling into Groups II and III (claims 11, 12, 13, 29, 30, and 31) will be entitled to examination.

Applicants respectfully traverse the Examiner's restriction of the claims. By so traversing, Applicants preserve the right to petition under MPEP § 818.03(c).

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 22, 2006
Date of Deposit
Signature *Leslie L. Smith*

Leslie L. Smith
Typed or Printed Name of Person Signing Certificate

Applicants submit that under 35 U.S.C. § 121 and MPEP § 802.02, the pending claims have been restricted incorrectly. For example, Applicants submit that it is improper to require a restriction between (a) claims to a method for depleting double negative T cells in a subject having, or at risk of having, an autoimmune disease, by administering an anti-4-1BB antibody, and (b) claims to a method for depleting double negative T cells in a subject having, or at risk of having, an autoimmune disease, by administering a nucleic acid encoding an anti-4-1BB antibody. Thus, the following is proposed:

Under MPEP § 809, claims 1 and 18 are linking claims with respect both to the genus of diseases and the genus of 4-1BB agonists. The species of disease include autoimmune diseases (claims 10, 11, 12, 28, 29, and 30, with subspecies of specific diseases recited therein), lymphoproliferative diseases (claims 10, 12, 28, and 30, with subspecies of specific diseases recited therein), and allergy (claims 13 and 31, with subspecies of specific allergies recited therein). The species of 4-1BB agonists include antibodies and ligands (claims 4-6, 14, and 19-22, with the subspecies of antibody or ligand), nucleic acids (claims 15 and 33, with the subspecies of nucleic acids encoding anti-4-1BB antibodies and nucleic acids encoding 4-1BB ligands), and cells (claims 16 and 34). Claims 2, 3, 7-9, 17, 23-27, and 32 are generic to both the disease and the 4-1BB agonist. Applicants submit that if claims 1 and/or 18 are found to be allowable in view of the elections of autoimmune disease and 4-1BB antibodies or ligands, all of the remaining claims should be entitled to examination.

Applicants submit that under 35 U.S.C. § 121 and MPEP § 802.02, the above-referenced proposal is proper. Applicants respectfully request reconsideration of this proposal as required under MPEP § 821.01, and request that the Examiner amend the restriction. If the Examiner agrees and the restriction is so amended, Applicants elect the species of autoimmune disease (and, if required, the subspecies of systemic lupus erythematosus) and the species of antibody or ligand (and, if required, the subspecies of antibody) without traverse. Such an election would read on claims 1-10, 17-21, 23-28, and 32, with claims 1-3, 7-9, 17, 18, 23-27, and 32 being generic.

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Attorney's Docket No.: 07039-427001 / MMV-02-228

Applicants believe that no fee is due. Please apply any charges or credits to Deposit
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Respectfully submitted,

Date: March 22, 2006

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